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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,638	06/19/2001	Thomas E. Ricciardelli	2601.102	4310

7590 09/22/2004

Jerry M. Presson  
95 Golden Hill Road  
Trumbull, CT 06611

EXAMINER


A, PHI DIEU TRAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/884,638	<b>Applicant(s)</b> RICCIARDELLI, THOMAS E.	
	<b>Examiner</b> Phi D A	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 30-34 is/are pending in the application.
- 4a) Of the above claim(s) 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Objections***

1. Claims 30, 34 are objected to because of the following informalities:

Claim 30 line 2 “adhacent” is misspelled. Should it be “adjacent”?

Claim 34 line 1 “whereinthe” is improper.

Appropriate correction is required.

2. PRODUCT BY PROCESS CLAIM:

“The subject matter present is regarded as a product by process claim in which a product is introduced by the method in which it is made. It is the general practice of this office to examine the final product described regardless of the method provided by the applicant.”

The above office policy applies to “molded” in claim 30.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palsson et al (6536178) in view of Costantino (6119423).

Palsson et al (figures 1a-2b) shows a plurality of mutually adjacent tiles composed of a substantially resilient, plastic material (col 9 lines 40-46), and mechanically interlocked along the side and end edges thereof (figures 11a-11c) for adhesive free mounting to an underlying surface, each of the tiles comprising an elongated base of substantially solid rectangular cross

Art Unit: 3637

section of substantially equal thickness (figures 1a-2b) and having a longitudinal axis, an upwardly facing top surface (1', figure 1a), a downwardly facing bottom surface (the opposite side of 1'), first and second substantially linear side edges forming substantially parallel borders, first and second rows of open sided substantially resilient interlock structures (213, 222) on the base extending parallel to and adjacent respective ones of the first and second edges, the interlock structures of the first row facing in opposite upward or downward respective directions from those of the second row and each of the structures on the first and second edges being comprised of a male projection (222, figure 2a) having sidewall portions projecting from its respective edge and a contiguous female cavity partially (221) partially formed by a sidewall portion of the male projection and shaped **substantially** as an inverted image of the male projection, the open side of the interlock structure adjacent the first side edge facing downwardly in the direction of the bottom surface and disposed to engage an upwardly facing, mating inverted interlock structure of another adjacent tile from the top of the base, the second interlock structure of the second row facing upwardly from the second edges in the direction of the top tile surface, a decorative plastic layer (1'') adhered to the top tile surface of each tile and covering said first row but not the second row of interlock structures of a corresponding tile, the decorative layer adhering to the top surface of each tile simulating a section of a wood floor (9a-9c), a plurality of top longitudinal grooves (figure 12a).

Palsson et al does not show a plurality of transverse stepped end surfaces, longitudinally spaced from one-another, formed on opposite ends of the base whereby the base edges are staggered in the longitudinal direction, the transversely step end surfaces are formed by a staircase of individual steps, each step having longitudinal and transverse intersecting portions to

Art Unit: 3637

simulate transverse staggering between individual boards of a wood floor, the step staircase being positionally inverted relative to a central plane through the base and perpendicular to the longitudinal axis, each step having a longitudinally disposed diagonal counterpart step on an opposite base end, each groove aligned with a longitudinal portion of a step and its opposite counterpart to simulate longitudinally abutting edges of boards of a wood floor.

Constantino (figure 6A) shows a plurality of transverse stepped end surfaces, longitudinally spaced from one-another, formed on opposite ends of the base, the ends being staggered in the longitudinal direction, the first and second rows of the structures respectively oriented at substantially right angles adjacent to the staggered ends of the tile to enable forming a floor surface with different pleasing visual effect.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Palsson et al's structure to show a plurality of transverse stepped end surfaces, longitudinally spaced from one-another, formed on opposite ends of the base whereby the base edges are staggered in the longitudinal direction, the transversely step end surfaces are formed by a staircase of individual steps, each step having longitudinal and transverse intersecting portions to simulate transverse staggering between individual boards of a wood floor, the step staircase being positionally inverted relative to a central plane through the base and perpendicular to the longitudinal axis, each step having a longitudinally disposed diagonal counterpart step on an opposite base end, each groove aligned with a longitudinal portion of a step and its opposite counterpart to simulate longitudinally abutting edges of boards of a wood floor because it would enhance the visual surface of the tile by giving the surface the effect of multiple wood floor planks being assembled together as taught by Costantino.

Art Unit: 3637

Per claim 32, Palsson et al as modified by Costantino shows the transversely stepped end surface on each tile being formed by a staircase of individual steps, each step having longitudinal and transverse intersecting portions to simulate transverse staggering between individual boards of a wood floor.

Per claim 33, Palsson et al as modified by Costantino (figure 6A) shows the step staircases being positioned inverted relative to a central plane through a said base and perpendicular to the longitudinal axis, each step having a longitudinally disposed diagonal counterpart step on an opposite base end.

Per claim 34, Palsson et al as modified by Costantino shows a plurality of top longitudinal grooves, each groove aligning with a longitudinal portion of a step and its opposite counterpart to simulate longitudinally abutting edges of boards of a wood floor.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 30-34 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows tile assembly.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 3637

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A *PA*

09/19/04

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*Lanna Mai*